

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO. 05-10363-GAO

ONE BEACON AMERICA INSURANCE COMPANY,
Plaintiff

V.

CROSBY YACHT YARD, INC.,
Defendant.

PLAINTIFF'S MEMORANDUM IN SUPPORT
OF ITS MOTION TO CONSOLIDATE

The plaintiff, One Beacon America Insurance Company, hereby submits the following memorandum in support of its motion that three pending cases (04cv1244, 04cv12252 and 05cv10363) be consolidated for all purposes.

All three cases arise out of a fire that allegedly occurred on or about December 10, 2003, in Osterville, Massachusetts. All of the plaintiffs in each case are insurance companies that indemnified their insured boat owners and boat owners seeking recovery of their uninsured damages allegedly caused by the fire. Moreover, all the cases involve defendant Crosby Yacht Yard. Civil Action Numbers 04cv12244 and 04cv12252 also involve Oyster Harbors Marine, because the fire spread from Crosby Yacht Yard to the adjacent yard. However, the issues of fact and law in the three cases are identical.

Federal Rule of Civil Procedure 42(a) provides that this Honorable Court may consolidate pending cases involving a common issue of law or fact.¹ Rule 42(a) was designed to encourage consolidation wherever possible, in the interest of judicial economy. See *United States v. Knauer*, 149 F.2d 519, 520 (7th Cir. 1945); *Vaccaro v. Moore-McCormack Lines, Inc.*, 64 F.R.D. 395, 397 (S.D.N.Y. 1974). In the consolidation of cases, courts exercise a broad discretion. *Knauer* at 520.

Consolidation of the pending cases will promote the interest of judicial economy, and will also avoid the possibility of inconsistent rulings or findings. The only essential difference between the two cases is the identity of the plaintiffs.

WHEREFORE, the plaintiff prays that the Motion to Consolidate for all purposes be allowed.

¹ Fed.R.Civ.P. 42(a) provides that "[w]hen actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

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By its attorneys,

CLINTON & MUZYKA, P.C.

"/s/Robert E. Collins"

Thomas J. Muzyka

BBO NO. 365540

Robert E. Collins

BBO NO. 555843

One Washington Mall

Suite 1400

Boston, MA 02108

(617) 723-9165

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